

111TH CONGRESS
1ST SESSION

S. 983

To reform the essential air service program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 6, 2009

Ms. SNOWE (for herself and Mr. BINGAMAN) introduced the following bill;
which was read twice and referred to the Committee on Commerce,
Science, and Transportation

A BILL

To reform the essential air service program, and for other
purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Rural Aviation Im-
5 provement Act”.

6 **SEC. 2. REPEAL OF ESSENTIAL AIR SERVICE LOCAL PAR-**
7 **TICIPATION PROGRAM.**

8 (a) IN GENERAL.—Subchapter II of chapter 417 of
9 title 49, United States Code, is amended by striking sec-

tion 41747, and such title 49 shall be applied as if such section 41747 had not been enacted.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 417 of title 49, United States Code, is amended by striking the item relating to section 41747.

SEC. 3. PER PASSENGER SUBSIDY FOR ESSENTIAL AIR SERVICE.

(a) IN GENERAL.—Section 41742 of title 49, United States Code, is amended by adding at the end the following:

“(c) PER PASSENGER SUBSIDY CAP.—

“(1) IN GENERAL.—The Secretary of Transportation may not provide compensation to an air carrier to provide air transportation under this subchapter to an otherwise eligible place in the 48 contiguous States if the eligible place—

“(A) is located fewer than 70 highway miles from a large hub airport or medium hub airport; or

“(B) is located fewer than 210 highway miles from a large hub airport or medium hub airport and providing such air transportation would require a per passenger subsidy in excess of the dollar amount described in paragraph (2).

1 “(2) DOLLAR AMOUNT OF PER PASSENGER
2 SUBSIDY.—

3 “(A) DOLLAR AMOUNT IN 2010.—For cal-
4 endar year 2010, the dollar amount described
5 in this paragraph is \$200.

6 “(B) DOLLAR AMOUNT AFTER 2010.—For
7 any calendar year after calendar year 2010, the
8 dollar amount described in this paragraph is an
9 amount equal to \$200 increased or decreased
10 by an amount equal to—

11 “(i) \$200, multiplied by

12 “(ii) the percentage (if any) of the in-
13 crease or decrease (as the case may be) in
14 the CPI for the preceding calendar year
15 compared to the CPI for calendar year
16 2009.

17 “(C) ROUNDING.—Any increase or de-
18 crease under subparagraph (B) of the dollar
19 amount described in this paragraph shall be
20 rounded to the nearest dollar.

21 “(3) CPI FOR ANY CALENDAR YEAR.—For pur-
22 poses of paragraph (2), the CPI for any calendar
23 year is the average of the Consumer Price Index as
24 of the close of the 12-month period ending on Au-
25 gust 31 of that calendar year.

1 “(4) CONSUMER PRICE INDEX.—For purposes
 2 of paragraph (3), the term ‘Consumer Price Index’
 3 means the last Consumer Price Index for all-urban
 4 consumers published by the Department of Labor.”.

5 (b) PER PASSENGER SUBSIDY DEFINED.—Section
 6 41731(a) of title 49, United States Code, is amended by
 7 adding at the end the following:

8 “(3) ‘per passenger subsidy’ means—

9 “(A) the total compensation provided by
 10 the Secretary of Transportation to an air car-
 11 rier under this subchapter that is necessary for
 12 the air carrier to provide air transportation to
 13 an eligible place, divided by

14 “(B) the total number of passengers using
 15 such air transportation.”.

16 (c) CONFORMING REPEAL.—Section 332 of the De-
 17 partment of Transportation and Related Agencies Appro-
 18 priations Act, 2000 (Public Law 106–69; 49 U.S.C.
 19 41731 note) is repealed.

20 **SEC. 4. COMMUNITIES ABOVE PER PASSENGER SUBSIDY**
 21 **CAP.**

22 (a) IN GENERAL.—Subchapter II of chapter 417 of
 23 title 49, United States Code, is amended by adding at the
 24 end the following:

1 **“§ 41749. Essential air service for eligible places**
 2 **above per passenger subsidy cap**

3 “(a) PROPOSALS.—A State or local government may
 4 submit a proposal to the Secretary of Transportation for
 5 compensation for an air carrier to provide air transpor-
 6 tation to a place described in subsection (b).

7 “(b) PLACE DESCRIBED.—A place described in this
 8 subsection is a place—

9 “(1) that is otherwise an eligible place; and

10 “(2) for which the per passenger subsidy ex-
 11 ceeds the dollar amount described in section
 12 41742(c).

13 “(c) DECISIONS.—Not later than 90 days after re-
 14 ceiving a proposal under subsection (a) for compensation
 15 for an air carrier to provide air transportation to a place
 16 described in subsection (b), the Secretary shall—

17 “(1) decide whether to provide compensation
 18 for the air carrier to provide air transportation to
 19 the place; and

20 “(2) approve the proposal if the State or local
 21 government or a person is willing and able to pay
 22 the difference between—

23 “(A) the per passenger subsidy; and

24 “(B) the dollar amount allowable for such
 25 subsidy under section 41742(c).

26 “(d) COMPENSATION PAYMENTS.—

1 “(1) IN GENERAL.—If the Secretary decides to
 2 provide compensation for an air carrier to provide
 3 air transportation to a place under subsection (c),
 4 the Secretary shall pay such compensation at such
 5 time and in such manner as the Secretary deter-
 6 mines is appropriate.

7 “(2) DURATION OF PAYMENTS.—The Secretary
 8 shall continue to pay compensation under this sec-
 9 tion only as long as—

10 “(A) the State or local government or per-
 11 son agreeing to pay compensation under sub-
 12 section (c)(2) continues to pay such compensa-
 13 tion; and

14 “(B) the Secretary decides the compensa-
 15 tion is necessary to maintain air transportation
 16 to the place.

17 “(e) REVIEW.—

18 “(1) IN GENERAL.—The Secretary shall peri-
 19 odically review the type and level of air service pro-
 20 vided under this section.

21 “(2) CONSULTATION.—The Secretary may
 22 make appropriate adjustments in the type and level
 23 of air service to a place under this section based on
 24 the review under paragraph (1) and consultation
 25 with the affected community and the State or local

1 government or person agreeing to pay compensation
2 under subsection (c)(2).

3 “(f) ENDING, SUSPENDING, AND REDUCING AIR
4 TRANSPORTATION.—An air carrier providing air transpor-
5 tation to a place under this section may end, suspend, or
6 reduce such air transportation if, not later than 30 days
7 before ending, suspending, or reducing such air transpor-
8 tation, the air carrier provides notice of the intent of the
9 air carrier to end, suspend, or reduce such air transpor-
10 tation to—

11 “(1) the Secretary;

12 “(2) the affected community; and

13 “(3) the State or local government or person
14 agreeing to pay compensation under subsection
15 (c)(2).”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for chapter 417 of title 49, United States Code, is amend-
18 ed by adding after the item relating to section 41748 the
19 following new item:

“41749. Essential air service for eligible places above per passenger subsidy
cap.”.

20 **SEC. 5. PREFERRED ESSENTIAL AIR SERVICE.**

21 (a) IN GENERAL.—Subchapter II of chapter 417 of
22 title 49, United States Code, as amended by section 4,
23 is further amended by adding after section 41749 the fol-
24 lowing:

1 **“§ 41750. Preferred essential air service**

2 “(a) PROPOSALS.—A State or local government may
3 submit a proposal to the Secretary of Transportation for
4 compensation for a preferred air carrier described in sub-
5 section (b) to provide air transportation to an eligible
6 place.

7 “(b) PREFERRED AIR CARRIER DESCRIBED.—A pre-
8 ferred air carrier described in this subsection is an air car-
9 rier that—

10 “(1) submits an application under section
11 41733(c) to provide air transportation to an eligible
12 place;

13 “(2) is not the air carrier that submits the low-
14 est cost bid to provide air transportation to the eligi-
15 ble place; and

16 “(3) is an air carrier that the affected commu-
17 nity prefers to provide air transportation to the eligi-
18 ble place instead of the air carrier that submits the
19 lowest cost bid.

20 “(c) DECISIONS.—Not later than 90 days after re-
21 ceiving a proposal under subsection (a) for compensation
22 for a preferred air carrier described in subsection (b) to
23 provide air transportation to an eligible place, the Sec-
24 retary shall—

1 “(1) decide whether to provide compensation
2 for the preferred air carrier to provide air transpor-
3 tation to the eligible place; and

4 “(2) approve the proposal if the State or local
5 government or a person is willing and able to pay
6 the difference between—

7 “(A) the rate of compensation the Sec-
8 retary would provide to the air carrier that sub-
9 mits the lowest cost bid to provide air transpor-
10 tation to the eligible place; and

11 “(B) the rate of compensation the pre-
12 ferred air carrier estimates to be necessary to
13 provide air transportation to the eligible place.

14 “(d) COMPENSATION PAYMENTS.—

15 “(1) IN GENERAL.—If the Secretary decides to
16 provide compensation for a preferred air carrier to
17 provide air transportation to an eligible place under
18 subsection (c), the Secretary shall pay such com-
19 pensation at such time and in such manner as the
20 Secretary determines is appropriate.

21 “(2) DURATION OF PAYMENTS.—The Secretary
22 shall continue to pay compensation under this sec-
23 tion only as long as—

24 “(A) the State or local government or per-
25 son agreeing to pay compensation under sub-

1 section (c)(2) continues to pay such compensa-
2 tion; and

3 “(B) the Secretary decides that it is nec-
4 essary to pay compensation to an air carrier to
5 maintain air transportation to the eligible place.

6 “(e) REVIEW.—

7 “(1) IN GENERAL.—The Secretary shall peri-
8 odically review the type and level of air service pro-
9 vided under this section.

10 “(2) CONSULTATION.—The Secretary may
11 make appropriate adjustments in the type and level
12 of air service to an eligible place under this section
13 based on the review under paragraph (1) and con-
14 sultation with the affected community and the State
15 or local government or person agreeing to pay com-
16 pensation under subsection (c)(2).

17 “(f) ENDING, SUSPENDING, AND REDUCING AIR
18 TRANSPORTATION.—A preferred air carrier providing air
19 transportation to an eligible place under this section may
20 end, suspend, or reduce such air transportation if, not
21 later than 30 days before ending, suspending, or reducing
22 such air transportation, the preferred air carrier provides
23 notice of the intent of the preferred air carrier to end,
24 suspend, or reduce such air transportation to—

25 “(1) the Secretary;

1 “(2) the affected community; and

2 “(3) the State or local government or person
3 agreeing to pay compensation under subsection
4 (c)(2).”.

5 (b) CLERICAL AMENDMENT.—The table of sections
6 for chapter 417 of title 49, United States Code, as amend-
7 ed by section 4, is further amended by adding after the
8 item relating to section 41749 the following new item:

“41750. Preferred essential air service.”.

9 **SEC. 6. RESTORATION OF ELIGIBILITY TO A PLACE DETER-**
10 **MINED BY THE SECRETARY TO BE INELI-**
11 **GIBLE FOR SUBSIDIZED ESSENTIAL AIR**
12 **SERVICE.**

13 Section 41733 of title 49, United States Code, is
14 amended by adding at the end the following new sub-
15 section:

16 “(f) RESTORATION OF ELIGIBILITY FOR SUBSIDIZED
17 ESSENTIAL AIR SERVICE.—

18 “(1) IN GENERAL.—If the Secretary of Trans-
19 portation terminates the eligibility of a place to re-
20 ceive basic essential air service, a State or local gov-
21 ernment may submit to the Secretary a proposal for
22 restoring such eligibility.

23 “(2) DETERMINATION BY SECRETARY.—If the
24 per passenger subsidy required to provide basic es-
25 sential air service to a place pursuant to a proposal

1 submitted under paragraph (1) does not exceed the
 2 per passenger subsidy cap described in section
 3 41742(c), the Secretary shall issue an order restor-
 4 ing the eligibility of the place to receive basic essen-
 5 tial air service.”.

6 **SEC. 7. CALCULATION OF HIGHWAY MILEAGE TO MEDIUM**
 7 **AND LARGE HUB AIRPORTS.**

8 (a) IN GENERAL.—Section 41731 of title 49, United
 9 States Code, is amended by adding at the end the fol-
 10 lowing:

11 “(c) CALCULATION OF HIGHWAY MILEAGE TO ME-
 12 DIUM AND LARGE HUB AIRPORTS.—

13 “(1) IN GENERAL.—In making any decision
 14 under this subchapter with respect to compensation
 15 or eligibility for compensation for essential air serv-
 16 ice based on the highway mileage of an eligible place
 17 from the nearest large hub airport or medium hub
 18 airport, the Secretary of Transportation shall cal-
 19 culate the highway mileage based on the highway
 20 mileage of the most commonly used route, as identi-
 21 fied under paragraph (2).

22 “(2) MOST COMMONLY USED ROUTE.—The Sec-
 23 retary shall identify the most commonly used route
 24 between an eligible place and the nearest large hub
 25 airport or medium hub airport by—

1 “(A) consulting with the Governor or a
2 designee of the Governor in the State in which
3 the eligible place is located; and

4 “(B) considering the route certified by the
5 Governor or a designee of the Governor to be
6 the most commonly used route.

7 “(3) APPLICABILITY.—This subsection shall
8 apply only with respect to eligible places in the 48
9 contiguous States and the District of Columbia.”.

10 (b) CONFORMING AMENDMENT.—Section 409 of Vi-
11 sion 100—Century of Aviation Reauthorization Act (Pub-
12 lic Law 108–176; 49 U.S.C. 41731 note) is repealed.

13 **SEC. 8. OFFICE OF RURAL AVIATION.**

14 (a) ESTABLISHMENT.—There is established within
15 the Office of the Secretary of Transportation the Office
16 of Rural Aviation (in this section referred to as the “Of-
17 fice”).

18 (b) FUNCTIONS.—The functions of the Office are—

19 (1) to develop a uniform 4-year contract for air
20 carriers providing essential air service to commu-
21 nities under subchapter II of chapter 417 of title 49,
22 United States Code;

23 (2) to develop a mechanism for comparing ap-
24 plications submitted by air carriers under section

1 41733(c) to provide essential air service to commu-
 2 nities, including comparing—

3 (A) estimates from air carriers on—

4 (i) the cost of providing essential air
 5 service; and

6 (ii) the revenues air carriers expect to
 7 receive when providing essential air service;
 8 and

9 (B) estimated schedules for air transpor-
 10 tation; and

11 (3) to select an air carrier from among air car-
 12 riers applying to provide essential air service, based
 13 on the criteria described in paragraph (2).

14 **SEC. 9. ADJUSTMENTS TO COMPENSATION FOR SIGNIFI-**
 15 **CANTLY INCREASED COSTS.**

16 Section 41737 of title 49, United States Code, is
 17 amended—

18 (1) in subsection (a)(1)—

19 (A) in subparagraph (B), by striking “;
 20 and” and inserting a semicolon;

21 (B) in subparagraph (C), by striking the
 22 period and inserting “; and”; and

23 (C) by adding at the end the following:

24 “(D) provide for an adjustment in com-
 25 pensation to account for significant increases in

1 fuel costs, in accordance with subsection (e).”;
 2 and
 3 (2) in subsection (e)—
 4 (A) in paragraph (1), by striking “may”
 5 and inserting “shall”; and
 6 (B) in paragraph (2), by striking “may”
 7 and inserting “shall”.

8 **SEC. 10. CHARTER AIR CARRIER PASSENGER BOARDINGS.**

9 Notwithstanding any other provision of law, the Sec-
 10 retary of Transportation shall treat passenger boardings
 11 on aircraft operated by charter air carriers at airports re-
 12 ceiving essential air service under subchapter II of chapter
 13 417 of title 49, United States Code, as passenger
 14 boardings for purposes of section 47114(c)(1)(E) of such
 15 title.

16 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

17 (a) **ESSENTIAL AIR SERVICE.**—Section 41737(d)(2)
 18 of title 49, United States Code, is amended to read as
 19 follows:

20 “(2) In addition to amounts authorized to be appro-
 21 priated under section 41742(a), not more than
 22 \$125,000,000 shall be available to the Secretary out of
 23 the Fund for each of the fiscal years 2010 through 2013
 24 to incur obligations under this section. Amounts made

1 available under this section remain available until ex-
2 pended.”.

3 (b) SMALL COMMUNITY AIR SERVICE DEVELOPMENT
4 PROGRAM.—Section 41743(e)(2) of title 49, United States
5 Code, is amended by striking “2009” and inserting
6 “2013”.

○